

Environment & Energy

The Environment & Energy Practice Group counsels clients on regulatory compliance, advocacy, permitting, cleanup, transactional and redevelopment matters, and provides representation before state and federal environmental and energy agencies and in state and federal courts.

The full service environmental & energy practice represents clients in all areas of environmental law, including air, water, wetlands, shoreland protection and solid and hazardous waste permitting and compliance, as well as energy facility and transmission siting and operations issues, and occupational safety and health matters at the federal, state and local levels of government. Our group has extensive experience in facilitating transactions and due diligence activities associated with environmental and energy projects and assisting in the mitigation of liability through risk allocation mechanisms.

Environment, Health and Safety

Our attorneys work closely with their clients' managers and consultants to develop appropriate responses to environmental permitting, compliance and enforcement issues ranging from small oil tank leaks to resolving Superfund site problems, and from wastewater permitting to workplace toxic exposures. The practice group frequently assists clients in resolving difficult environmental regulatory and transactional matters involving the Clean Air Act, Clean Water Act, RCRA, TSCA, EPCRA and OSHA.

We regularly work with clients in the manufacturing and services sectors to anticipate regulatory changes and plan for the most economic means of compliance. Attorneys in the group work closely with our Corporate, Real Estate and Land Use practitioners on a wide range of business and property transactions and development matters, including representation of developers and other parties in connection with numerous Brownfield and cleanup sites. Our attorneys serve as special counsel to the Pease International Tradeport and New Hampshire Division of Ports and Harbors. Examples of other clients include developers, manufacturers, municipalities, sellers and purchasers of contaminated property as identified in the samples below.

Energy Experience

Our attorneys assist clients on a broad range of energy and natural resources-related matters, including asset and equity transactions; secured lending, project financing, and tax-equity financing of energy, natural resources, and related infrastructure projects; energy and natural resource project development; business entity formation, joint ventures, and strategic alliances; Clients include conventional and renewable energy developers and producers; regulated energy marketers; upstream petroleum producers and

Practice Area Chair
Lynn J. Preston

Members

- Thomas S. Burack
- Robert P. Cheney
- Robert R. Lucic
- Lynn J. Preston

SHEEHAN PHINNEY

downstream petroleum distributors; metals and aggregates mining companies; private equity funds, banks, including “Green Banks,” and finance companies; and technology and software platform-based businesses providing critical solutions to the energy and natural resources industries. A sample project list is as follows:

- Representation of regional solar energy developer in the development, financing, and sale of 81 MW of distributed solar energy projects in the State of Maine
- Representation of a national “Green Bank” in the \$75 million secured financing of a renewable natural gas project located in northern New Hampshire
- Representation of community bank in tax-equity financing of distributed solar energy projects in New Hampshire and Vermont
- Representation of a private equity-backed power marketer in the acquisition of the assets of a New York-based energy aggregator and sustainability consultancy
- Routinely represent energy developers and landowners in energy site leasing and easement transactions
- Representation of limited partners in acquisitions and divestitures of FERC licensed and FERC license-exempt hydroelectric generation assets
- Representation of competitive energy supplier in the divestiture of portions of its residential and commercial customer accounts to third-party buyers

Energy Construction Experience

Our attorneys regularly draft, analyze, and negotiate construction contracts, purchase orders, and related project execution agreements in the energy sector within the EPC, design-build, and design-bid-build delivery models. Transactions include generation and transmission projects for gas, solar, wind, and co-gen. Particular experience also includes, drafting and negotiating large equipment purchase orders (i.e. HRSGs, turbines, solar panels). A sample project list is as follows:

- Draft and negotiate multiple EPC solar deals for clean-energy investment fund
- Draft and negotiate EPC deal for new LNG facility
- Draft and negotiate subcontract forms for EPC contractor and developer of utility-scale solar facilities
- Represented client in \$6 Billion international EPC Oil Refinery Expansion Project – Provided general counseling and strategy advice to EPC Contractor on myriad of issues involving risk, payment, claims and change-management

SHEEHAN PHINNEY

- Represented client in 345 kV Transmission Reliability Project performing EPC contract analysis in dispute posture and formulating advice for Project close-out negotiations with \$40M in dispute
- Represented client in full review and analysis of offshore wind project contract documents relative to upland transmission connection (from off-shore cofferdam to utility substation)
- Represented client in full review and analysis of onshore wind contract documents relative to the construction of turbine pads and project roadways
- Full review and analysis of contract documents relative to the installation of numerous gas-metering and gas-compressor station projects. Drafting of proposed edits and internal risk-assessment advice for EPC Contractor

Litigation

Our Litigation group complements our full service Environmental & Energy practice, representing governmental and municipal entities as well as private commercial clients in assisting their compliance with federal, state, and municipal environmental and energy regulations, and, when necessary, defending clients against adverse actions taken by regulatory bodies, or in third party actions implicating environmental and energy concerns.

We have represented clients with varying degrees of involvement at Superfund sites in New Hampshire, New England and across the country. We have handled complex and challenging cases involving the Clean Air Act, Clean Water Act, the Endangered Species Act, the Oil Discharge and Disposal Clean Up Fund, as well as water and mineral rights cases.

We have also represented major manufacturers, developers and municipalities in private cost recovery actions, state and federal government enforcement matters, insurance coverage disputes and complex multi-party cases, including facility siting and complex permitting matters.